



JUL 21 2011

MEMORANDUM TO THE PRESIDENT

GOVERNMENT USE OF WEB ANALYTICS

SUMMARY

The Privacy Commissioner has expressed concern regarding the privacy implications with respect to the use of Web analytics services by a number of government departments. In her letter to you, she calls for Treasury Board to develop clear guidance to ensure a whole-of-government approach to the use of these tools and requests that Treasury Board issue a moratorium on the use of these services until such time as guidance is available.

You are asked to sign the attached letter, which commits to undertaking research and risk analysis associated with the use of these services with a view to developing such guidance.

Background

Web analytics is the study of visitor activity on a website, involving the collection and analysis of data on how users interact with a website. It can be used to provide details on web traffic, the path taken by a visitor through a website, whether a visitor has ever been to the site before and how they came to visit the site (e.g. through a search engine, cookies, or a bookmark). Google Analytics is a popular web analytics program and is currently being used by many Government of Canada departments.

In her letter to you dated June 2, 2011, the Privacy Commissioner expresses concern about the privacy risks inherent in the use of web analytics. She is particularly concerned with the retention and transfer of Internet Protocol (IP) addresses, which may, in certain circumstances, be considered as personal information given that they, in combination with other data elements, can lead to the identification of a specific visitor. The Privacy Commissioner calls for direction in four areas: (1) collection and use of Internet Protocol addresses, (2) retention of these, (3) safeguards for their protection, and (4) disclosure.

The Privacy Commissioner further states that over 40 government departments are using Google Analytics, including the Treasury Board Secretariat, and that she has not yet received any Privacy Impact Assessment (PIA) concerning the deployment of these tools, as is required by the Treasury Board Directive on Privacy Impact Assessments.

She concludes by urging Treasury Board to develop guidance around the use of web analytics, and until such time as guidance is available requests that a moratorium be placed on transferring such data to third parties, particularly those located outside Canada.

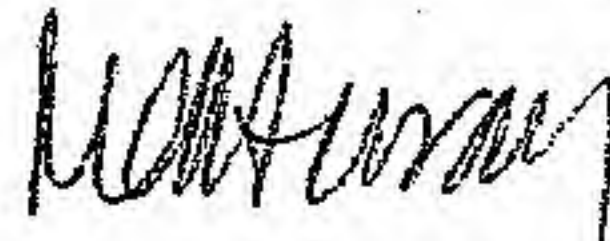
Treasury Board has no clear guidance on the protection of Internet Protocol addresses, but does have guidance in place regarding the use of "cookies" on Government of Canada websites which essentially states that institutions must undertake to follow eight steps to ensure cookies are only implemented when required, that information collected is minimized and safeguarded, and that a "cookie-free" navigation option must be provided.

A Privacy Notice is being drafted for posting on the Treasury Board Secretariat and other government websites explaining the use of Google Analytics, including the types of cookies used and how they can be disabled (i.e. how a visitor can "opt out" of being tracked) which will be reviewed by the appropriate Treasury Board policy centre. We are currently working with those responsible for Common Look and Feel standards and Web Standards to ensure that consistent guidance is provided to all government departments.

s.21(1)(b)

Recommendation

You are requested to sign the letter indicating that Treasury Board Secretariat will undertake research and analysis into this issue,



Michelle d'Auray



Minister has signed the correspondence/attachment(s).

Corinne Charette, Chief Information Officer, Chief Information Officer
Branch (957-7070)

Attachment

President
of the Treasury Board



Président
du Conseil du Trésor

Ottawa, Canada K1A 0R5

Ms. Jennifer Stoddart
Privacy Commissioner of Canada
Offices of the Information and
Privacy Commissioners
Place de Ville, Tower B
112 Kent Street, 3rd Floor
Ottawa, Ontario
K1A 1H3

Dear Ms. Stoddart:

Thank you for your letter, dated June 2, 2011, regarding Government use of web analytics. I have noted your comments.

As you have correctly pointed out, the Secretariat has had guidance in place regarding the use of “cookies” on Government of Canada websites since 2002 which essentially states that institutions must undertake to follow eight steps to ensure cookies are only implemented when required, that information collected is minimized and safeguarded, and that a “cookie-free” navigation option must be provided.

That said, I agree that the rapidly developing field of internet analytical technology also calls for a whole-of-government approach. Only data which is germane to the analytical process – and has been adequately and robustly anonymized – should be shared with third party service providers. I believe this to be a reasonable approach which strikes the balance between understanding how the Government of Canada can ensure its websites are most effective, while safeguarding personal information of those who visit them.

s.21(1)(b)

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In conclusion, please accept my assurance that my staff will continue to work collaboratively with your Office to protect the privacy rights of Canadians.

Again, thank you for writing.

Yours sincerely,

The Honourable Tony Clement, P.C., M.P.

Privacy Commissioner
of Canada

112 Kent Street
Ottawa, Ontario
K1A 1H3
Tel.: (613) 995-8210
Fax: (613) 947-6850
1-800-282-1376
www.privcom.gc.ca

Commissaire à la protection
de la vie privée du Canada

112, rue Kent
Ottawa (Ontario)
K1A 1H3
Tél.: (613) 995-8210
Télec.: (613) 947-6850
1-800-282-1376
www.privcom.gc.ca

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BF DATE/ÉCHÉANCE JUNE 23 - 2 2011

The Honourable Tony Clement
President of the Treasury Board
House of Commons
Ottawa, Ontario K1A 0A6

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Re: Government Use of Web Analytics

Dear Minister:

Please accept my sincere congratulations on your appointment as the President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario. It is in your capacity as President of the Treasury Board that I am writing to you about a matter that has come to my Office's attention and that I believe requires consideration by you as designated Minister responsible under the *Privacy Act* for developing guidance for government institutions and agencies.

The Use of Web Analytics

My Office is aware that a number of government departments and agencies have deployed web analytics to improve their sites. To provide some background information, *web analytics* is the study of visitor activity on a website, which involves the collection and analysis of data about how users interact with a site. Web analytics provide a detailed picture of web traffic, including such information as whether a visitor has come to a site for the first time and what sequence of pages they view when navigating the site. The goal of analytics is to support formal evaluation, helping website operators to figure out if their site is effective and how it is being used. Analytics results can be used in many ways, such as reorganizing a site to make it easier to find information, or figuring out whether a publicity campaign led to more online visitors.

In order to run analytics, information about website visitors and their activities must be collected and used. Some of the data used in analytics includes visitors' IP addresses and the date and time of visit, as well as cookies (for tracking) and the type of browser being used. The specific analytics practices in use, including the types of data collected for analysis, vary across departments and websites. Cookies, for example, are used widely across government sites. Treasury Board issued

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Secretary of the Treasury Board Secrétaire du conseil du Trésor



guidance, last revised in 2002, on cookie use for government sites.¹ This guidance allows for cookies to be used, but also recommends that departments determine if cookies are necessary, and that visitors should not have to accept cookies in order to gain access to government information. In addition, this guidance recommends that government websites should facilitate anonymous access, and that the use of persistent cookies should be avoided whenever possible.

The Privacy Implications

The collection and use of such analytics data raise privacy issues. The piece of data most likely to be considered to be personal information is the IP address, which could be tied to a specific visitor, particularly in combination with other details collected during site visits (e.g., browser type, cookie data). IP addresses are collected (and usually stored) every time a visitor comes to a site, irrespective of whether or not they are further used in web analytics, making this collection a broader issue. This IP information may be stored for long periods of time: there is no requirement under the *Privacy Act* that compels departments to delete the data they collect on their web servers.

Currently there is no formal guidance, such as a Treasury Board directive or guidelines, concerning the use of web analytics. In the absence of formal guidance, departments have been deciding independently how they can use the data that they collect about website visits. One aspect that must be considered is whether analytics are performed in-house (within a department), or by a third party. Any department managing its own web analytics requires dedicated personnel with specialized skills, and the resources to perform ongoing analysis. Given such demands, in many cases government web analytics are being outsourced to third parties, sometimes outside of Canada. One such third-party service is Google Analytics, which provides an easy-to-use tool at no cost. Over 40 government sites have already deployed Google Analytics, and this tool has proven very popular. It is likely that its deployment will continue to grow.

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¹ Guidelines for Cookies on Government of Canada Web Sites. <http://www.tbs-sct.gc.ca/pgol-pged/cookies-temoins/cookies-temoins00-eng.asp>



Necessary Guidance

This growth trend in analytics in government suggests that guidance on any privacy considerations is a necessary step to ensure that these tools are deployed in a privacy-protective manner. In 2010, my Office held consultations on online tracking, profiling and targeting, and cloud computing. Although the focus of the consultations was on private sector practices, many of the issues raised during that consultation apply to federal government practices. Studies we have seen suggest that Canadians are uncomfortable with how their use of web sites is tracked – when they are aware of the practices. While the consultations typically centred on tracking web usage within the advertising context, it is likely that Canadians may have concerns about how government departments and agencies are tracking citizen use of government web sites.

I therefore believe serious consideration needs to be given to the following issues:

1. **Collection and Usage:** What types of web usage information may be collected and analyzed, and for what purposes? What kinds of techniques may be used to collect information for analytics (e.g., cookies)?
2. **Retention:** How long should site visit information, such as web server logs, be stored before being deleted? Could aggregate reports be retained, instead of the raw, detailed data?
3. **Safeguards:** What measures must be taken to protect web analytics data, if it contains personal information?
4. **Disclosure:** Should government website data be shared with third parties, such as Google, for the purposes of analytics? If so, what (if any) limits should be in place (e.g., should the data be kept within Canada)?

Given that many departments have already deployed third-party analytics and that my Office did not receive any Privacy Impact Assessments – indeed we only became aware of the current situation when a department approached us for advice – I am concerned that very important privacy considerations are not being addressed in a comprehensive and consistent manner across government.

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I would respectfully urge that clear guidance be developed around these practices as soon as practicable, and that in the interim, a moratorium be placed on transferring such data to third parties, particularly those located outside of Canada, until the privacy implications of such practices are fully addressed. As always, my Office would be happy to discuss this issue in greater detail with Treasury Board officials.

Thank you for your consideration,

Yours sincerely,

A handwritten signature in cursive script that reads "Jennifer Stoddart".

Jennifer Stoddart
Privacy Commissioner of Canada

c.c.: Michelle d'Auray, Secretary of the Treasury Board of Canada